



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT UNDERGROUND STORAGE TANK OPERATOR TRAINING REQUIREMENTS

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Mitchell E. Daniels, Jr.

Governor

Thomas W. Easterly

Commissioner

100 North Senate Avenue, Mail Code 65-45, Indianapolis, IN 46204

Phone: (317) 233-1655

Toll Free: (800) 451-6027

Description

New rules at 329 IAC 9-9, concerning training of persons who operate underground storage tank (UST) systems.

Citations Affected

329 IAC 9-9.

Affected Persons

Underground storage tank owners and operators will be affected by this rule. Indiana has approximately 4,000 underground storage tank facilities. Operators overlap for these facilities (and can overlap in their training) so the number of operators requiring training could be approximately 2,000.

Reason(s) for the Rule

On August 8, 2007, the United States Environmental Protection Agency (EPA) published operator training grant guidelines in the Federal Register (72 FR 44523) for states that receive UST funds from EPA. To comply with the federal mandate, IDEM is proposing new rules for UST system operator training.

Economic Impact of the Rule

This rulemaking addresses a requirement imposed under federal law; therefore there is no additional fiscal impact beyond the impact already imposed under federal law. Indiana has approximately 4,000 underground storage tank facilities. Operators overlap for these facilities (and can overlap in their training) so the number of operators requiring training could be approximately 2,000. However SEA 347, enacted last year, requires that IDEM provide an on-line training program that complies with the federal training guidelines.

Benefits of the Rule

These new rules for underground storage tank operator training, and the training and certification provided online by IDEM will ensure that all UST operators have the knowledge necessary to operate underground storage tanks in a manner designed to prevent releases or ensure early detection of releases to the environment. The new rule will support the continued protection of human health and the environment in the state of Indiana.

Description of the Rulemaking Project

Section 9010(a) and Section 9010(b) of Subtitle I of the Solid Waste Disposal Act, 42 U.S.C. 6901 et seq. require EPA to publish guidelines that establish training requirements for three distinct classes of UST system operators and require states to develop state-specific training requirements consistent with the guidelines. The EPA training grant guidelines describe the minimum requirements states must meet to comply with the operator training provisions, leaving states the flexibility to tailor their program according to their needs. The deadline to ensure that all three classes of operators are trained according to the state training requirements is August 8, 2012. The training is now available on IDEM's website.



IC 13-23-1-1 directs IDEM to establish and operate a UST release detection, prevention, and corrective action program. The operator training required under the federal regulations is a part of the prevention portion of the program. In addition, IC 13-19-3-1 requires the solid waste management board to adopt rules necessary to implement the Resource Conservation Recovery Act (RCRA).

To comply with the federal mandate, IDEM is proposing rules that establish three distinct classes of UST operators identified as Class A, Class B, and Class C. The rules describe the responsibilities for each class of operator and provide that Class A and Class B operators must be trained and certified through the on-line training program. Class C operators must receive UST system facility specific training from a certified Class A or Class B operator or other qualified trainer. Once Indiana has met the requirements for an operator training and certification program, it must submit to EPA a certificate indicating that the state meets the requirements in the EPA guidelines.

Public Notices

First Notice of Comment Period: February 17, 2010, Indiana Register (DIN: 2010217-IR-329100066FNA).

Second Notice of Comment Period: February 1, 2012, Indiana Register (DIN: 20120201-IR-329100066SNA).

Notice of Public Hearing: February 1, 2012, Indiana Register (DIN: 20120201-IR-329100066PHA).

Change in Notice of Public Hearing: March 21, 2012, Indiana Register (DIN: 20120321-IR-329100066CHA).

Change in Notice of Public Hearing: June 27, 2012, Indiana Register (DIN: TBA)

Scheduled Hearings

First Public Hearing: April 17, 2012.

Second Public Hearing: July 17, 2012.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule is consistent with the federal requirements for underground storage tank operator training per the EPA Guidance (EPA-510-R-07-005), Solid Waste Disposal Act (SWDA), and Section 1524 of the Energy Policy Act of 2005.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the department's responses from the first comment



period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with Legislative Services.

Additional Information

Additional information regarding this rulemaking action can be obtained from Kiran Verma, Rules Development Branch, Office of Legal Counsel, (317) 232-8899 or (800) 451-6027 (in Indiana).